

**CITY OF CLOVERDALE
CITY COUNCIL**

RESOLUTION NO. 073-2021

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVERDALE
ESTABLISHING AND UPDATING THE SCHEDULE OF FEES AND CHARGES FOR
CITY SERVICES AND REPEALING PREVIOUSLY ADOPTED AND CONFLICTING
FEES AND CHARGES FOR SUCH SERVICES**

WHEREAS, the City Council of the City of Cloverdale (“City”) has maintained a policy of recovering up to the full cost of providing miscellaneous voluntary City services and regulatory activities from those persons utilizing them, so that such costs are borne by the direct beneficiaries of such services and regulatory activities rather than by the City General Fund, pursuant to applicable law; and

WHEREAS, the City Council last updated the City’s schedule of such services and regulatory activities by Resolution No. 072-2020 on July 22, 2020; and

WHEREAS, the City Council last updated the City’s schedule of its engineering and planning service fees by Resolution No. 072-2020 on July 22, 2020; and

WHEREAS, City staff have recently completed a review of City service fees and charges, including an analysis of the personnel, maintenance and operation costs, professional services, capital costs, and time, materials and equipment required to perform such services; and

WHEREAS, based on the analysis of such fees and charges, staff have estimated cost of the time, materials and equipment in light of the present costs of providing the services that such fees and charges are intended to recover and staff’s analysis of such present service costs has resulted in re-calculated service fees and charges, as set forth in the Fee Schedule attached hereto and made part of this Resolution as Exhibit A (“Fee Schedule”);

WHEREAS, the current Staff Billing Rates for various City services and activities are attached hereto and made a part of this Resolution as a portion of Exhibit A (“Staff Billing Rates”); and

WHEREAS, in adopting the fees and charges for City services as set forth in this Resolution, the City Council is exercising its powers under Article XI, Section 7 of the California Constitution, Section 66014 of the California Government Code, and other applicable law; and

WHEREAS, none of the fees and charges set forth in the Fee Schedule adopted by this Resolution is a “tax” as defined in Section 1, paragraph (e) of Article XIII C of the California Constitution because such fees and charges are imposed for a specific benefit conferred or privilege granted directly to the payer that is not provided to those not charged, and which does not exceed the reasonable cost to the local government of providing the service or product; such fees and charges are imposed for a specific government service or product provided directly to the payer that is not provided to those not charged, and which does not exceed the reasonable cost to the local government of providing the service or product; and/or such fees and charges are imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections and audits, enforcing

agricultural marketing orders and the administrative enforcement and adjudication thereof; and/or such fees and charges are imposed as a condition of property development; and

WHEREAS, the fees and charges set forth in the schedule of fees and charges adopted by this Resolution are not subject to the requirements of Article XIID of the California Constitution concerning property related assessments and fees pursuant to *Apartment Association of Los Angeles County v. City of Los Angeles* (2001) 24 Cal.4th 830, in that such fees are not applicable to incidents of property ownership, but rather to actual use of City services; and

WHEREAS, in accordance with Government Code Section 50076, fees and charges that do not exceed the reasonable cost of providing the service or regulatory activity for which the fees are charged and which are not levied for general revenue purposes are not special taxes as defined in Article 3.5 of the Government Code; and

WHEREAS, in accordance with Government Code Section 66014, local agency fees for: zoning variances, use permits, building inspections, building permits, filing and processing applications and petitions filed with the local agency formation commission or conducting proceedings filed under the Cortese-Knox Local Government Reorganization Act of 1985 (Government Code § 56000, *et seq.*), processing maps under the Subdivision Map Act (Government Code § 66410, *et seq.*), or planning services shall not exceed the estimated reasonable cost of providing the service for which the fee is charged; and

WHEREAS, in accordance with Government Code section 65104, fees to support the work of planning agencies shall not exceed the reasonable cost of providing the service for which the fee is charged; and

WHEREAS, in accordance with Government Code Section 65456, legislative bodies may, after adopting a specific plan, impose a specific plan fee upon persons seeking governmental approvals which are required to be consistent with the specific plan, and such fees shall, in the aggregate, defray but not exceed the cost of preparation, adoption and administration of the specific plan; and

WHEREAS, in accordance with Government Code Section 65909.5, reasonable city fees for the processing of use permits, zone variances, or zone changes shall not exceed the amount reasonably required to administer the processing of such permits, zone variances or changes; and

WHEREAS, in accordance with Government Code Section 66451.2, reasonable local agency fees for the processing of tentative, final and parcel maps shall not exceed the amount reasonably required by the agency; and

WHEREAS, in accordance with Health and Safety Code Section 17951, city governing bodies may prescribe fees for permits, certificates or other documents required or authorized concerning implementation and enforcement of the California Building Standards Code, and such fees shall not exceed the amount reasonably required to administer or process those permits, certificates or other forms or documents, and shall not be levied for general revenue purposes; and

WHEREAS, in accordance with Health and Safety Code Section 19132.3, city governing bodies may adopt fees for filing building permit applications, and such fees shall not exceed the amount reasonably required for the local enforcement agency to issue such permits, and shall not be levied for general revenue purposes; and

WHEREAS, in accordance with Health and Safety Code Section 19852, city governing bodies may prescribe such fees as will pay the expenses incurred by the building department in maintaining the official copy of the plans of buildings for which building permits have been issued, but such fees shall not exceed the amount reasonably required in maintaining the official copy of the plans for which building permits have been issued; and

WHEREAS, fees adopted pursuant to Government Code Sections 66014, 65104, 65456, 65909.5, and 66451.2, and Health and Safety Code Sections 17951, 19132.3, and 19852, are to be imposed pursuant to Section 66016 of the Government Code, which imposes certain procedural requirements prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge; and

WHEREAS, in accordance with the Government Code Section 66016, the fees contained in the Fee Schedule and the basis for calculating such fees constitute cost data supporting the fee increases and new fees and charges, and such cost data was available for public review and comment for ten days prior to the public hearing at which this Resolution was adopted; and

WHEREAS, in accordance with California Government Code Section 66016, at least 14 days prior to the public hearing at which the City Council first considered adoption of the fees established by this Resolution, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the City for mailed notice of meetings on new or increased fees or service charges; and

WHEREAS, 10 days advance notice of the public hearing at which this Resolution was adopted was given by publication in accordance with Section 6062a of the Government Code; and

WHEREAS, it is the intention of the City Council to adopt a schedule of fees and charges, which updates certain existing fees and charges, and/or establishes certain new fees and charges based on the City's budgeted and projected costs of providing such services; and

WHEREAS, the schedule of fees and the total amounts thereof, described in Exhibit "A," which is attached to and made a part of this Resolution, are hereby determined to be reasonable in that the amounts thereof do not exceed the estimated reasonable costs of providing the services for which the charges and fees are made;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cloverdale as follows:

Section 1. Findings. The following findings are true and correct and adopted as the findings of the City Council:

A. The purpose of the fees and charges set forth in Exhibit "A" of this Resolution is to recover up to the full, lawfully recoverable costs incurred by the City in providing various City services, and such fees and charges are not levied for general revenue purposes.

B. After consideration of the data and information regarding the costs of providing services relating to all fees and charges subject to this Resolution, including the Fee Schedule, Staff Billing Rates, all testimony received orally or in writing at or before the noticed public hearing, the agenda report and the background documents to the agenda report and all correspondence received (together, "Record"),

the City Council of the City of Cloverdale approves and adopts the methods and basis of calculations of the fees and charges identified in Exhibit A as establishing the reasonable estimated cost of providing such services or activities.

C. Adoption of the fees and charges set forth in Exhibit "A" of this Resolution is intended to recover costs necessary to maintain such services within the City within existing service areas and is not a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to 14 California Code of Regulations ("CEQA Guidelines") section 15378(b)(4) (the creation of government funding mechanisms or other government fiscal activities which do not involve any specific commitment to any specific project which may result in a potentially significant impact on the environment); and/or CEQA Guidelines section 15273 (statutory exemption for rates, tolls, fares and charges within an existing service area); and/or CEQA Guidelines section 15061(b)(3) ("common sense" general exemption where there is no possibility the activity in question may have a significant effect on the environment).

D. The Record establishes that the costs listed in the Fee Schedule and the staff rates applicable to those fees and charges which are to be increased and/or established as costs incurred by the City in providing City services are reasonable estimates of the cost of providing such services, and that the revisions recommended to existing fees for such services are necessary to recover the reasonable, estimated cost of providing such services.

Section 2. Fee Schedule Adoption. The fee amounts that result from the application of the methods and basis of calculation of the Fees identified in Exhibit A to current staff billing rates specified in Exhibit B for services and activities subject to such fees are hereby imposed on the services or activities subject to such Fees at the time such services or activities are sought and/or performed by the City or its designated contractors.

Section 3. Separate Fee for Each Process. All fees set by this Resolution are for each identified process or service; additional fees shall be required for each additional process or service that is requested or required. Where fees are indicated on a per unit of measurement basis, the fee is for each identified unit or portion thereof within the indicated ranges of such units.

Section 4. Adoption of Fees.

A. Definitions.

(1) "Applicant" shall mean any person required by the Cloverdale Municipal Code or other applicable law to apply to the City seeking a permit or other approval or services or to file documents, including, but not limited to, maps, concerning proposed Development Projects within the City. "Applicant" shall also mean any person who: (i) is permitted by the Cloverdale Municipal Code or other applicable law to apply to the City seeking a permit or other approval or services or to file documents, including, but not limited to, maps, concerning proposed Development Projects within the City and who (ii) actually applies to the City seeking such permit or other approval or services or files such documents.

(2) "Development Projects" shall mean the construction, alteration or addition, other than by the City, of any building or structure within the City, and any use of land, other than by the City, including, but not limited to, subdivision of land, within the City that is subject pursuant to the Cloverdale Municipal Code or other applicable law to first seeking and obtaining from the City a permit or other approval or services or to first filing documents, including, but not limited to, maps with the City.

(3) "Fees" shall mean the charge or charges imposed on members of the public or Applicants to recover the costs incurred by the City in providing City services to any member of the public and development related services to Applicants.

B. Services Fees Imposed.

Fees shall be imposed on and paid by members of the public and Applicants at the times, and in the amounts, and otherwise apply and be administered as prescribed in this Resolution. The City shall accept for processing no applications or other filings that are subject to payment of Fees without the fee required pursuant to this Resolution.

C. Time for Payment of Fees.

The estimated Fees applicable to members of the public and Applicants subject to payment of Fees shall be deposited and/or be paid, upon a member of the public or an Applicant seeking or being required to seek a permit or other approval or services or filing documents, including, but not limited to, maps, concerning or related to City services and/or proposed Development Projects within the City, and upon notice from the City that a deposit for future processing is required.

D. Fee Amounts.

The fee amounts shall be as specified in the Fee Schedule attached as Exhibit A to this Resolution. The total Fees applicable to any City services or Development Projects that require payment of multiple Fees shall be the sum of all such Fees.

E. Use of Fee Revenue.

The revenues raised by payment of the Fees shall be used to fund the estimated reasonable cost of providing the services for which the Fees are charged, and the fee revenues shall not be used for general revenue purposes. Fees shall be applied against the cost of providing the services for which the fees are charged. The City shall maintain a record of direct and indirect costs of providing services for City services and Development Projects subject to the deposit.

F. Deposit Maintenance.

Applicants subject to Fees in the form of a deposit must maintain deposit balances in accordance with this provision. When City service costs equal 75 percent of the deposit balance, the City shall notify the Applicant that the deposit must be increased to its original amount as prescribed in this Resolution. After an Applicant for a Development Project subject to deposit in accordance with the Resolution has been notified City service costs equal 75 percent of the deposit balance, when the service costs equal 90 percent of the deposit balance, services for such Development Project will cease until the deposit is increased to its original amount prescribed in this Resolution, and/or City staff may recommend denial of the Development Project to the decision making body.

G. Refund of Unused Deposit Balances.

Fees other than deposit amounts are not subject to refund. If a fund balance remains in the deposit for a Development Project, and the City services for such Development Project are completed and

all City service costs paid from such deposit, the remaining deposit balance shall be refunded, without interest, to the Applicant.

Section 5. Subsequent Analysis and Revision of the Fees. The fees and charges set forth herein are adopted and implemented by the City Council in reliance on the Record identified above. The City may continue to conduct further study and analysis to determine whether the fees and charges for City services should be revised. When additional information is available, the City Council may review the fees and charges to determine that the amounts do not exceed the estimated reasonable cost of providing the services for which the fees and charges are charged.

Section 6. Adjustment. From time to time, as appropriate, City staff are directed to analyze the calculations contained in Exhibit A to determine whether, when applied to current staff billing rates for providing services and activities subject to the Fees, such calculations are no longer adequate to recover the reasonable estimated cost of providing such services and regulatory activities, staff are directed to return to the City Council with a new staff analysis and proposed Fee calculations for consideration and possible adoption by the City Council.

Section 7. Update of Staff Billing Rates. City staff are directed to update the calculation of the current Staff Billing Rates for services and regulatory activities subject to City fees pursuant to this Resolution and to update the current Fee Schedule and Staff Billing Rate schedule to reflect such updated rates as appropriate, and to post such updated rates and the Fee Schedule and to otherwise make the updated current fee amount information available to any interested member of the public.

Section 8. Effective Date. This Resolution shall become effective immediately. In accordance with Government Code Section 66017, all new and/or increased fees and charges upon a development project, as defined in Government Code Section 66000, which apply to the filing, accepting, reviewing, approving, or issuing of an application, permit, or entitlement to use shall be effective no sooner than 60 days following the effective date of this Resolution. All other new and/or increased fees and charges not subject to Government Code Section 66017 that are set forth in Exhibit A shall become effective immediately.

Section 9. Repealed. These fees and charges shall supersede the corresponding fees previously established and adopted by the City Council. All previously adopted and conflicting fees and charges and all resolutions, including, but not limited to, Resolution Nos. 79-2006, 042-2009 and 043-2009, 022-2011, 047-2014, 051-2016 and other actions of the City Council are hereby repealed to the extent they conflict with the contents of this Resolution.


Section 10. Severability. The individual fees and charges set forth in Exhibit "A" of this Resolution and all portions of this Resolution are severable. Should any of the fees or charges or any portion of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining fees, charges and/or Resolution portions shall be and continue in full force and effect, except as to those fees, charges, and/or Resolution portions that have been adjudged invalid. The City Council of the City of Cloverdale hereby declares that it would have adopted each of the fees and charges set forth in Exhibit "A" of this Resolution, and this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more of the fees, charges, or sections, subsections, clauses, sentences, phrases or other portions of this Resolution may be held invalid or unconstitutional.

City of Cloverdale
Council Resolution No. 073-2021

The foregoing Resolution No. 073-2021 was duly introduced and duly adopted by the City Council at a regular meeting held on the 11th day of August 2021, by the following roll call vote:


AYES:	(5)	Councilmembers Bagby, Palla and Wolter, Vice Mayor Lands and Mayor Cruz
NOES:	(0)	None
ABSTAIN:	(0)	None
ABSENT:	(0)	None

APPROVED:



Marta Cruz, Mayor

ATTEST:




Irene Camacho-Werby, City Clerk

Attachment:

Exhibit A – Master Fee Schedule

IRENE CAMACHO-WERBY, City Clerk of the City of Cloverdale, do hereby certify that the foregoing is a full, true, and correct copy of Resolution No. 073-2021 adopted by the City Council of the City of Cloverdale on the 11th day of August 2021.



Irene Camacho-Werby, City Clerk